

REMARKS

Applicant thanks the Examiner for total consideration given the present application. Claims 1-8 were pending prior to the Office Action. Claims 1, 6, 7, and 8 have been amended, claim 5 has been canceled, and claims 9-11 have been added through this Reply. Therefore claims 1-4 and 6-11 remain pending. Claims 1, 6, 7, and 8 are independent. Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks.

DRAWINGS

The drawings are objected to for lack of proper labeling of the background art as illustrated in FIG. 2. The drawings have been amended to address this objection. Applicant respectfully requests that the objection to the specification/drawings be withdrawn.

NON-STATUTORY DOUBLE PATENTING

Claims 1, 3, 4, and 6-8 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1, 2, 3, 5, 6, and 7 respectively, of copending Application No. 10/718,622, which has been placed in condition for allowance on Aug. 27, 2007, but not yet published.

Applicant has filed a Terminal Disclaimer with this Reply. Applicant respectfully requests that nonstatutory obviousness-type double patenting, based on copending Application No. 10/718,622, be withdrawn.

35 U.S.C. § 102 REJECTION – MORIMOTO

Claims 1, 4, and 6-8 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Morimoto (JP 07-143513) (hereinafter “Morimoto”). Applicant respectfully traverses this rejection.

For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. *See M.P.E.P. 2131; M.P.E.P. 706.02*. Thus, if the cited reference

fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, Morimoto fails to teach or suggest each and every claimed element. For example, independent claim 1 recites, *inter alia*, “A solid-state imaging apparatus comprising: a solid-state imaging device having a plurality of pixels that image light originating from a subject, by *dividing the light into a plurality of color signals with a plurality of types of color filters provided with said plurality of pixels*; ... wherein the solid-state imaging device further comprises *a sensor that has a filter different from said plurality of types of color filters and detects light in a wavelength range which induces a difference having a predetermined value or more between radiant energy of a first light source and radiant energy of a second light source ...*” *Emphasis added.*

Morimoto merely teaches a sensor corresponding to pixels for imaging a color signal. More specifically, Morimoto teaches an image acquisition sensor 1 acquiring an image. The acquired image is divided into a fundamental color signals red, green, and blue (r,g,b) by a color separation section 2. The separated signals from the color separation section is processed with a color temperature compensation section controlled by a gain controller 3. Morimoto also teaches an encoder 6 which modulates image signal for standardize display format such as NTSC. Morimoto’s apparatus merely deals with balancing color signal gains for display purpose.

In contrast, the instant application claims a solid-state imaging apparatus comprising “a solid-state imaging device having a plurality of pixels that image light originating from a subject, by *dividing the light into a plurality of color signals with a plurality of types of color filters provided with said plurality of pixels*.” In addition, claim 1 further includes “the solid-state imaging device further comprises “*a sensor that has a filter different from said plurality of types of color filters and detects light in a wavelength range which induces a difference having a predetermined value or more between radiant energy of a first light source and radiant energy of a second light source.*” Nowhere does Morimoto teach or suggest that the image acquisition sensor 1 includes *dividing the light into a plurality of color signals with a plurality of types of color filters provided with said plurality of pixels*. In addition, Morimoto fails to teach or suggest the image acquisition *sensor has a filter different from said plurality of types of color*

filters and detects light in a wavelength range which induces a difference having a predetermined value or more between radiant energy of a first light source and radiant energy of a second light source.

In addition, claims 6, 7, and 8 include similar features in claim 1. Therefore, for at least these reasons, independent claims 1, 6, 7, and 8 are distinguishable from Morimoto. Claim 4 depends from claim 1. Therefore, for at least the reasons stated with respect to claim 1, claim 4 is also distinguishable from Morimoto.

Accordingly, Applicant respectfully requests that the rejection of claims 1, 4, and 6-8, based on Morimoto, be withdrawn.

35 U.S.C. § 103 REJECTION – MORIMOTO IN VIEW OF KITAJIMA

Claim 2 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Morimoto in view of Kitajima (USPN 5,808,681) (hereinafter “Kitajima”). Applicant respectfully traverses.

For a Section 103 rejection to be proper, a *prima facie* case of obviousness must be established. *See M.P.E.P. 2142*. One requirement to establish *prima facie* case of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. *See M.P.E.P. 2142; M.P.E.P. 706.02(j)*. Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

As presented above, Morimoto fails to teach or suggest “a solid-state imaging device having a plurality of pixels that image light originating from a subject, by *dividing the light into a plurality of color signals with a plurality of types of color filters provided with said plurality of pixels*; ... wherein the solid-state imaging device further comprises a sensor that *has a filter different from said plurality of types of color filters and detects light in a wavelength range which induces a difference having a predetermined value or more between radiant energy of a first light source and radiant energy of a second light source ...*” In addition, Kitajima fails to teach or suggest the above limitation to supplement Morimoto’s missing feature.

As set forth on page 6 of the Office Action, the Examiner relies on Kitajima as allegedly pertaining to incremental features of the above listed dependent claims. The Examiner’s reliance

on Kitajima, however, fails to make up for the deficiencies of Morimoto discussed above with respect to Claim 1. Therefore, the asserted combination of Morimoto and Kitajima (assuming these references may be combined, which applicant does not admit) fails to establish prima facie obviousness of any pending claims.

35 U.S.C. § 103 REJECTION -- MORIMOTO IN VIEW OF YAMADA

Claim 3 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Morimoto in view of Yamada (USPN 2002/0012463 A1) (hereinafter "Yamada"). Applicant respectfully traverses.

As presented above, Morimoto fails to teach or suggest "a solid-state imaging device having a plurality of pixels that image light originating from a subject, by *dividing the light into a plurality of color signals with a plurality of types of color filters provided with said plurality of pixels*; ... wherein the solid-state imaging device further comprises a sensor that *has a filter different from said plurality of types of color filters and detects light in a wavelength range which induces a difference having a predetermined value or more between radiant energy of a first light source and radiant energy of a second light source ...*" In addition, Yamada fails to teach or suggest the above limitation to supplement Morimoto's missing feature.

As set forth on page 6 of the Office Action, the Examiner relies on Yamada as allegedly pertaining to incremental features of the above listed dependent claims. The Examiner's reliance on Yamada, however, fails to make up for the deficiencies of Morimoto discussed above with respect to Claim 1. Therefore, the asserted combination of Morimoto and Yamada (assuming these references may be combined, which applicant does not admit) fails to establish prima facie obviousness of any pending claims.

NEW CLAIMS

Claims 9-11 depend from independent claim 1, 6, and 8, respectively. Therefore, these dependent claims are also distinguishable over the cited references for at least the reasons stated with respect to claims 1, 6, and 8.

Applicant respectfully requests that the claims 9-11 be allowed.

Conclusion

In view of the above remarks, it is believed that claims are allowable.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact D. Richard Anderson Reg. No. 40,439 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: November 13, 2007

Respectfully submitted,

By 

D. Richard Anderson
Registration No.: 40,439
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant

Attachments:

Terminal Disclaimer
Replacement Sheet for Fig. 2